

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

United States Court of Appeals
Fifth Circuit

FILED

December 9, 2008

Charles R. Fulbruge III
Clerk

No. 08-30205

ROYAL FIBERGLASS POOLS INC

Plaintiff - Appellant

v.

POLY SOLUTIONS INC; ULTRA POLYMERS INC

Defendants - Appellees

Appeal from the United States District Court
for the Western District of Louisiana, Lafayette
Cause No. 6:06-CV-1666

Before KING, DENNIS, and ELROD, Circuit Judges.

PER CURIAM:*

The judgment of the district court is affirmed. Assuming, arguendo, that sufficient proof of chalking was adduced, the district court correctly concluded that the plaintiff-appellant failed to provide sufficient proof that the Ultra Poly One Coat caused the chalking, having failed to rule out other possible causes. The affidavit of a Florida pool contractor, not designated as an expert, will not carry that load, particularly in view of the contractor's recommendation that further testing be done. AFFIRMED.

* Pursuant to 5TH CIR. R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR. R. 47.5.4.